The Planning Inspectorate

Appeal Decision

Site visit made on 5 June 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2020

Appeal Ref: APP/D3505/W/20/3244635
Well House, Round Maple, Edwardstone CO10 5PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Milsom against the decision of Babergh District Council.
- The application Ref DC/19/03648, dated 15 July 2019, was refused by notice dated 24 September 2019.
- The development proposed is described as, 'new vehicular access (with consequent variation to conditions 2, 3, 4 and 5 imposed upon planning permission DC/18/03944).

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on highway safety.

Reasons

3. In December 2018 planning permission (Council ref: DC/18/03944) for the erection of two dwellings was granted subject to conditions. That proposal would share a vehicular access with the adjacent host property, Well House.

4. The appeal scheme would introduce a separate access to serve the two dwellings approved under the 2018 scheme and would be located central to the new dwellings.

5. The speed limit along this stretch of road appears to be the National Speed Limit (NSL). While I acknowledge the location, width and alignment of the road, there is little substantial evidence before me regarding the frequency or speed of traffic to indicate that vehicles do not travel at speeds close to the NSL. While I note that the approved dwellings would be visible from the road, given the rural nature of the area and the speed limit, it is likely that vehicles would travel at high speeds along the road.

6. The visibility from the proposed access would be limited to the bend in the road to the east which would appear closer to the proposed access than the existing access to Well House. While visibility to the west would be greater than that from the existing access, it would be limited to the junction. I note that there are other dwellings along the road and that there may not have been any accidents in recent years. However, the surrounding houses are few in number and sporadically spaced such that it is unlikely that vehicles would reduce their speed to a significant extent. Given the likely speed of traffic approaching from

both directions, vehicles approaching the proposed access would be unlikely to have adequate time to react to vehicles exiting the access to avoid collision and vice versa.

7. Therefore, it is likely that the proposed access would increase the risk of collisions and there is little substantial evidence before me to demonstrate that a departure from the recommended visibility splays would be justified in this instance.

8. I note that the 2018 scheme with a single access serving the two new dwellings as well as the existing house would also not achieve the visibility splays recommended by the Manual for Streets and that the proposal would not result in additional vehicle movements. However, since the proposed access would result in two points of access onto the highway with restricted visibility, there would be more points of possible collision along the highway than the fall-back position. Accordingly, the proposal would be likely to be more harmful than the fall-back position established by the 2018 scheme.

9. Consequently, the proposed development would have an unacceptable impact on highway safety. Therefore, it would conflict with paragraph 109 of the National Planning Policy Framework (Framework) which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matter

10. I acknowledge local support for the application. However, given the harm identified, this has not altered my overall decision.

Planning Balance

11. While the Council has cited Policy T10 of the Local Plan 1998 in the decision notice, it has confirmed that this Policy no longer exists. The Council has cited a number of policies in the planning officer's report. These include Policy CN01 of the Babergh Local Plan Alteration No.2 Adopted June 2006 (LP) which relates primarily to design and LP Policy TP15 which relates to parking standards. They are therefore not directly relevant to the main issue.

12. Policy CS1 of the Babergh Local Plan 2011-2031 Core Strategy & Policies (Part 1 of New Babergh Local Plan) February 2014 (CS) relates to the presumption in favour of sustainable development and states that where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material conditions indicate otherwise; taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The Policy is in line with paragraph 11(d) of the Framework and given that, from the evidence before me, there are no policies directly relevant to the application, the provisions of paragraph 11(d) are triggered in this case.

13. In addition, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Furthermore, the Framework carries great weight as a material consideration. In this case, given the likely harm to highway safety, the adverse effects of the proposal amount to a material

consideration to which I attach significant weight particularly given the conflict with paragraph 109 of the Framework.

14. The appellant has suggested that the proposal would result in the reduction in possible conflict at the entrance between three sets of vehicles at one point. However, given the harm identified above, this point carries limited weight in favour of the proposal. While the proposed development may ease legal complications regarding severance of the existing dwelling from the neighbouring land, given the limited number of dwellings involved, this would be a limited benefit.

15. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

16. For the reasons given above, the appeal is dismissed.

R Sabu

INSPECTOR